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... And a New Dawn for Immigrants

By

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President Bush meets with President Vicente Fox today. It is tempting therefore to consider the administration's proposed immigration reforms, unveiled last week, as a bid for the Hispanic vote. Yet such a view, with its narrow focus, would be a big mistake -- not least on the part of the Democrats. The fact is that these reforms, which are intended to cover illegal immigrants from everywhere -- unlike the administration's pre-9/11 proposals, which offered relief only to Mexican illegals -- reflect a fundamental rethink of our immigration policy toward illegals from that underlying the 1986 Immigration Reform and Control Act.

That law assumed that the problem of illegals in our midst could be solved by a two-pronged approach. The existing stock of illegals would be eliminated by an amnesty, while the flow of new illegals would be stanching by tougher enforcement, including employer sanctions. We would then have fulfilled two objectives central to our concerns: one, "regained control of our borders," with legal immigration left as the only route into the U.S.; and two, an end to the ethical blight of an illegal underclass, simply because there would be hardly any left!

But the intended results did not materialize, exactly as some of us had anticipated. The legislation, even as it reduced the stock of illegals, did not seriously diminish the illegal inflow. And attempts at enforcement simply created major disruptions in the lives of the illegals in this country -- while not dissuading potential incomers from trying to breach the fortress.

The problem was that enforcement of sanctions against employers and illegals -- whether at the border or inside the U.S. -- could not be carried out effectively without compromising the civilized nature of our society. It was well known, for instance, that immigrants attempting illegal entry were, if caught, put on the bus across the Rio Grande -- and they crossed again, and then again, until they got in. Those who were caught could not be incarcerated. Nor could one keep going into workplaces or residential areas in raids that disrupted the illegal immigrant's lives: That was not the American Way, and was too reminiscent of methods that we associate with authoritarian regimes. As for employer sanctions, which were lightly enforced, European experience confirms that judges will let off offending employers with negligible punishments; few judges could bring themselves to enforce the law against those who were simply employing, as against exploiting, immigrants.

So the illegals continued to pour in; by some estimates, the inflow has even increased. And the ethical dimension of the problem increased, too, but in an unforeseen direction. The enforcement at the border, but not at home, really got out of hand. The "border" became the "frontier" -- quasi-militarized, with night sensors, fences, ditches, armed border patrol agents and helicopters. The main routes through cities such as San Diego were the initial areas of attention. But even as the attempted entries through them declined, the illegals turned to ways through arid and deadly deserts, where they were abandoned, often to their deaths, by unscrupulous "coyotes."

Since the realists among us have now accepted that illegal immigration will continue, and that eliminating it cannot be done by policies that befit a civilized country, a fundamental change of attitudes has come to pass. Thus, the labor unions, which were big supporters of the 1986 law's philosophy, have thrown in the towel. The AFL-CIO, in a remarkable reversal, has now decided that if the illegals are going to be here anyway, the unions are better off bringing them up from the underground, giving them the rights that legal immigrants and natives enjoy -- and giving them union membership cards. This is enlightened self-interest rather than solidarity, but it is good enough.

Furthermore, the growing numbers of immigrants with votes -- partly due to the earlier amnesty of 1986, which added more than three million voters -- has also led to immense pressure for a humane policy toward the illegal immigrants, not just from Hispanic communities.

So, both morality and practical politics have meant that the time has come for a fundamental shift in immigration policy toward illegals. Since their arrival is inevitable, we have to learn to give them rights, without necessarily granting amnesty. Blanket amnesties would mean that the distinction between legal and illegal entrants disappears, and that we have de facto open borders. But giving them rights (including the right to unionize) is essential to their welfare; it is also the surest way, as the unions have realized, for union politics to gain ground quickly.

We may, and will, fight over important details. But the potent truth is that the Bush administration has positioned itself at the vanguard of arguably the most dramatic and welcome change in our immigration policy. The Democrats will have to play catch-up. Once again, they have allowed the moment to be seized by a Republican president.